

1950

## The Air Route Pattern Problem

Russell B. Adams

---

### Recommended Citation

Russell B. Adams, *The Air Route Pattern Problem*, 17 J. AIR L. & COM. 127 (1950)  
<https://scholar.smu.edu/jalc/vol17/iss2/1>

This Article is brought to you for free and open access by the Law Journals at SMU Scholar. It has been accepted for inclusion in Journal of Air Law and Commerce by an authorized administrator of SMU Scholar. For more information, please visit <http://digitalrepository.smu.edu>.

# THE JOURNAL OF AIR LAW AND COMMERCE

Volume 17

SPRING, 1950

Number 2

## THE AIR ROUTE PATTERN PROBLEM\*

By RUSSELL B. ADAMS

Member, Civil Aeronautics Board; Chairman, Economic Division, Air Coordinating Committee since 1946; Chairman of Alternate Members of ACC since 1949; *Formerly*, Post Office Department 1930-39; Director of Economic Bureau of CAB, 1945-48; technical advisor to U.S. delegation to First Interim Assembly of PICAQ, Montreal, 1946; Alternate Delegate to First Assembly of ICAO, Montreal, 1947; Chairman U.S. delegation to Second Assembly of ICAO, Geneva, 1948, signing the Convention on International Recognition of Rights in Aircraft; Chairman U.S. delegation to Conference on Civil Aviation between the U.S. and Canada at Ottawa, June, 1949.

AT the time of the passage of the Civil Aeronautics Act of 1938 the United States had a domestic air-transportation system of 39,267 miles and an international and overseas air-transportation system of 31,067 miles. These systems, almost all of which were established by the Post Office Department and which constituted the so-called "grandfather routes" under the Civil Aeronautics Act, formed the foundation for the subsequent route development of United States air transportation. Domestically, the "grandfather routes," while constituting essentially a good basic design in the light of the economic and technological achievements and promises of the time, possessed certain inherent defects which ensuing developments have brought into sharp relief. Both good and bad features, however, were the inheritance of the Civil Aeronautics Board. Internationally, only in the Caribbean area and South America was a basic design underway. Here, the Board had an opportunity to do much in the way of planning. Today, the domestic system embraces nearly 146,000 miles, and the international and overseas system comprises almost 210,000 miles.

The unsatisfactory post-war financial condition of the airline industry gave the first impetus to a questioning of the soundness of the route expansion and the manner in which it was accomplished. In 1945, the certificated trunk air carriers in the United States made an operating

\* Adapted from an address delivered at the Fourth Annual Air Transportation Institute, The American University, Washington, D. C., on January 27, 1950. This article represents the personal views of its author and is not presented as a reflection of the views of the other members of the Civil Aeronautics Board.

profit of nearly \$34,000,000. In 1946, they experienced an operating loss of almost \$5,000,000. The losses mounted in 1947, showing a year-end total of approximately \$15,000,000. In early 1947, the Civil Aeronautics Board acknowledged the possibility of route pattern deficiencies in undertaking special investigations of five air carriers.<sup>1</sup> These and other circumstances led to activity by both the President and the Congress in the aviation field. The result in early 1948 was the President's Air Policy Commission<sup>2</sup> and the Congressional Aviation Policy Board<sup>3</sup> reports.

The President's Air Policy Commission was seriously apprehensive with respect to the possible existence of excessive competition in the air-transportation system and was concerned with the important question of whether the combination of existing companies should be encouraged or prevented by the Board. The Congressional Aviation Policy Board report also dealt with the problem, stating among other things, "Excessive competition exists in some sections and there is insufficient competition in others." While the whole plight of the industry was not attributed to route pattern deficiencies, revisions in the route pattern were clearly envisioned as necessary in both reports.

The early investigations of the Board attested to the fact that no illusions existed within the Board itself concerning the possibility of deficiencies in the route pattern. It would have been more than surprising if the expansion of any industry of the magnitude of that experienced by the air-transportation industry could have been accomplished without fault. Whether perfecting and expanding the inherited domestic system or planning the international system, the problems were not easy. To "look into the seeds of time, and say which grain will grow and which will not" is infinitely more difficult than retrospective analysis of a situation to determine error. War and post-war economic and technological developments brought into play important new factors and considerations. In undertaking to correct possible defects, however, the Board was confronted by three basic problems: (1) an ascertainment of the areas which needed attention; (2) a decision on any specific changes required by the public interest; and (3) a determination of the means by which any decision of the Board with respect to desirable changes in the route pattern could best be effectuated. Of the three problems, the third was and is by far the most difficult. It is also the most neglected by critics of the existing situation.

---

<sup>1</sup> Colonial Airlines, Order Serial No. E-373, dated March 18, 1947 (Dkt. No. 2852); Northeast Airlines, Order Serial No. E-375, dated March 18, 1947 (Dkt. No. 2853); Chicago and Southern Air Lines, Order Serial No. E-401, dated March 24, 1947, closed by Order Serial No. E-1783, dated July 12, 1948 (Dkt. No. 2862); Capital Airlines, Order Serial No. E-437, dated April 7, 1947 (Dkt. No. 2883); Western Air Lines, Order Serial No. E-485, dated April 28, 1947 (Dkt. No. 2911). 2911).

<sup>2</sup> *Survival in the Air Age*, Report by the President's Air Policy Commission, issued January 1, 1948.

<sup>3</sup> *National Aviation Policy*, Report of the Congressional Aviation Policy Board of the United States pursuant to Public Law 287 (An Act to Provide for the Establishment of a Temporary Congressional Aviation Policy Board), 80th Cong., 2d Sess., issued March 1, 1948.

The first persistent effort of the Board in the route pattern field was the Board's investigation of the route structure of National Airlines.<sup>4</sup> In the *National* case, the Board found that it was in the public interest for it to undertake to determine "whether the encouragement and development of an air transportation system properly adapted to the present and future needs of the United States and the fostering of sound economic conditions in such air transportation system" would not be furthered by the transfer of National's property and various segments of its route system to other carriers. While specific mention was made in the original order of September 28, 1948, of the possible transfer of the Miami-New York route to Pan American World Airways, the Miami-New Orleans route to Delta Air lines, and the Miami-Havana route to Eastern Air Lines or Delta, the Board later made it clear that its consideration of possible transferee carriers or solutions was not intended to be confined only to those named in the order.<sup>5</sup>

After three weeks of hearings, National announced on March 30, 1949, that it had entered into tentative agreements with Pan American and Pan American-Grace Airways for the interchange of equipment at Miami. It was stated that such interchange would make possible through flights between New York and other cities on the National system and points in South America. The agreement also contemplated the operation of Pan American aircraft in domestic service between New York and Miami. In addition, National referred to arrangements which had been made for the acquisition of some of its stock by W. R. Grace & Co. and Pan American. National then requested either dismissal of the investigation or temporary adjournment of the hearing, pending action by the Board on the stock transfer arrangements and the interchange agreements.<sup>6</sup> The Board did adjourn the hearing temporarily and has since consolidated into the over-all case not only these proposals but also the proposed agreement between National and Eastern under which these carriers could operate through flights from points west of New Orleans on Eastern's system to points east of New Orleans on National's system.<sup>7</sup> Public hearing in the investigation was scheduled to be resumed on March 6.

Especially to be noted in the procedural progress of this case is the fact that specific actionable proposals have been submitted to the Board to be examined concurrently with the Board's detailed study of the entire National problem. As the result of its investigation the Board will make a determination of what, if any, revisions should be undertaken in the public interest with respect to the route pattern of National. To

---

<sup>4</sup> *National Route Transfer Case* (Dkt. No. 3500 *et al.*), instituted by Order Serial No. E-2025 (September 28, 1948), amended by Order Serial No. E-2228 (November 24, 1948).

<sup>5</sup> Order Serial No. E-2275 (December 8, 1948).

<sup>6</sup> Applications for approval of these proposals were filed on May 11, 1949 (Dkt. Nos. 3785, 3786, and 3787).

<sup>7</sup> Dkt. No. 3681, consolidated into the *National Route Transfer Case* by Order Serial No. E-3017 (July 15, 1949).

the extent that the Board's determination may be reasonably met by the proposals submitted by National, Grace & Co., Panagra, Pan American, and Eastern, the proposals may be approved. All proposals not in reasonable accord with the Board's determination will have to be denied. To whatever extent the Board's determination may not be implemented by action upon a proposal before it, the Board will be obliged either to rely upon some future voluntary action of the affected parties to implement the Board's view of the public interest or, on its own initiative, to take alternative actions of a character discussed later.

The criticism and controversy which surrounded the Board's order of investigation with respect to National had no parallel in the history of the Board. One of the many criticisms of the order was the specific nature of its terms, which was frequently construed as a prejudgment of the issues. Some predicted with self-assurance that nothing constructive could result from the investigation, and consideration was given to other techniques which might be employed in the route examinations required in other areas.

The procedural progress in the *National* case, however, is to be sharply contrasted with that achieved in other cases dealing with other parts of the route pattern on which public Board examination has been undertaken, particularly the investigations concerning Western Air Lines<sup>8</sup> and Northeast Airlines,<sup>9</sup> which were broadened in February 1949 in conjunction with the Board's issuance on February 26 of its Statement of Policy with respect to the Economic Program for 1949. The route segment proceedings instituted at the same time, having to do with possible excessive competition on the routes between Washington and Chicago,<sup>10</sup> Washington and Detroit, Milwaukee and the Twin Cities,<sup>11</sup> and New York and Detroit,<sup>12</sup> fall to a degree in the same class.

---

<sup>8</sup> Instituted on April 28, 1947 by Order Serial No. E-485 (Dkt. No. 2911), as amended by Order Serial No. E-2479 (February 21, 1949).

<sup>9</sup> Instituted on March 18, 1947 by Order Serial No. E-375 (Dkt. No. 2853), as amended by Order Serial No. E-2478 (February 21, 1949).

<sup>10</sup> Order Serial No. E-2480, dated February 21, 1949 (Dkt. No. 3660). In the Summary of Orders issued to implement Civil Aeronautics Board Statement of Policy released February 26, 1949 the investigation was described as follows: "An order instituting a proceeding to determine whether it would be in the public interest to alter, amend, modify, or suspend United's Route 1, TWA's Route 2, Capital's Route 14 or American's Route 25 to prevent any one or more of these carriers from engaging in one-stop or non-stop operations between Washington and Chicago. The proceeding will also determine whether the public convenience and necessity require the elimination or suspension of United's route from Toledo to Washington and the institution of an interchange between United and Capital at Chicago."

<sup>11</sup> Order Serial No. E-2481, dated February 21, 1949 (Dkt. No. 3661). In the Summary of Orders (see footnote 10) the investigation was described as follows: "An order instituting a proceeding to determine whether it would be in the public interest to alter, amend, modify, or suspend Northwest's certificate between Detroit and Washington and Capital's certificate between Milwaukee and the Twin Cities and whether it would be in the public interest for these two carriers to enter into an equipment interchange agreement respecting these routes." The prehearing conference in this case was held on October 17, 1949, and public hearing has been concluded.

<sup>12</sup> Order Serial No. E-2482, dated February 21, 1949 (Docket No. 3662). In the Summary of Orders (see footnote 10) the investigation was described as fol-

To use the utmost brevity to describe the Western and Northeast proceedings, the Board simply issued orders of investigation to determine what, if anything, needed to be done with respect to the route patterns of these two carriers.<sup>13</sup> Whatever the shortcomings of these orders, they possess in common the supposed virtue of advancing no particular solution which the Board desires especially to be studied.

Since the issuance of these two orders nearly a year ago, absolutely nothing definitive has been achieved looking toward a correction of any uneconomic features of the route patterns of Western and Northeast. Responsibility for this failure rests with both the Board and the carriers involved.

The most obvious Board responsibility rests in the fact that the Board has not yet set the proceedings down for hearing. The reason for this is the lack of sufficient staff, a lack which belabors the Board on many important fronts. If there is more efficacy in one than in another method of route pattern examination, the Board may have erred in not discovering the proper method. The importance of the method derives wholly from the extent, if any, to which it assists or influences the carriers themselves to present for Board consideration actionable proposed solutions to their own route pattern problems. Perhaps the orders of investigation with respect to Western and Northeast should have been patterned after the specific character of the National order and should have named possible solutions. Perhaps some forcible indication should have been given of the part which carriers other than those in primary focus could play in the solution of the problems. Or perhaps the orders should have included simply a specific delineation of the Board's concept of the route pattern problems of these two carriers. Still other methods might have been employed.

#### *Industry's Opportunity to Offer a Solution*

Whatever the Board's responsibility in this matter, it would seem that the carriers involved are not without an obligation of their own. They have a responsibility to present to the Board actionable proposed solutions. This is not criticism of Western and Northeast, who have

---

lows: "An order instituting a proceeding to determine whether it would be in the public interest to alter, amend, modify, or suspend the certificates of United, Northwest, American or Capital so as to eliminate, suspend or restrict the authority of any of these carriers to render Detroit-New York service and whether Capital and Northwest should establish equipment interchange at Detroit."

<sup>13</sup> In the Summary of Orders (see footnote 10) the investigations were described as follows: "An order expanding the scope of the existing investigation relative to Western Airlines to determine the relationship of Western's routes to the over-all domestic air transportation pattern and the action, if any, which may be required in the public interest with respect to the routes and operations of Western, either by Western alone, or in conjunction with other air carriers, or by the Board. The investigation embraces the desirability, from the standpoint of the public interest, of a merger or consolidation of Western with another air carrier or carriers, purchase of one or more of Western's routes by other air carriers, interchange of equipment by Western with other carriers or a Board order to alter, amend, modify, or suspend Western's certificate in whole or in part . . . A similar, but not identical, order relative to Northeast."

made efforts to achieve what they consider to be the best solutions to the problems of their systems as they see them. Nor is this criticism of the managements of the carriers with whom Western and Northeast may have dealt in an effort to secure their participation in proposed solutions. No doubt all concerned have worked earnestly and with good intent as they see it. It is clear that these route pattern matters are difficult ones with which to deal. There are many economic, corporate, and psychological obstacles to solution. But one thing should be evident to all — something must be done about the route pattern problem. And if it is not the industry's responsibility to proffer a solution, it is at least their opportunity to do so.

In affirming a responsibility on industry to proffer solutions to the route pattern problem, I am not in any sense endeavoring deviously to censure them alone for the situation requiring correction. The inherent defects of the "grandfather" route pattern have previously been mentioned. In the period of route expansion, the carriers were the applicants and the Board was the grantor. If more was granted than should have been, far more was applied for than was granted. No advantage is gained, however, from any argument over the relative degree of responsibility for the present situation. The important thing is to correct whatever unsoundness exists. And in this corrective process in order to permit a maximum of freedom to private enterprise, the industry should be the initiator, the applicant to delineate the proposed solution. The statement of Federal Coordinator of Transportation Joseph B. Eastman in writing of the railroads in 1934 has many points of applicability to the present situation of the airlines:

"Much will depend upon the railroad managements. They are of one mind in opposition to public ownership and operation, and in general they are against grand consolidation plans. One or the other of these remedies, however, will eventually be applied, unless the managements are able to remedy present ills in some other way. This alternative, if it be possible, can only take the form of a better organization of the railroad industry which will enable them to deal collectively and effectively with matters which concern them all. The managements must pull together instead of pulling against each other in a great variety of different directions. The difficulties are great, and I am not at all sure that they can be surmounted. The tendency to cling to assumed individual advantages in preference to those which would be gained by coordination or correlation is ingrained, and it may be impossible to overcome. But it is well that the managements should have the chance to apply the principles of statesmanship, and with the help of the Government, at least at the outset."<sup>14</sup>

For my part, I have confidence that air carrier statesmanship is not exhausted; my hope is that the time to apply the principles of its states-

---

<sup>14</sup> Regulation of Railroads, Letter from the Chairman of the Interstate Commerce Commission Transmitting Pursuant to Law, a Report of the Federal Coordinator of Transportation upon the Question, "Is There Need for a Radical or Major Change in the Organization, Conduct, and Regulation of the Railroad Industry which can be Accomplished by Federal Legislation?" Senate Doc. 119, 73d Cong., 2d Sess. (January 22, 1934), p. 33.

manship will not run out. From an industry viewpoint the present provides to all concerned a more advantageous opportunity for action than some time in the future when some adversity may place the stress of emergency and even more difficult financing problems upon actions of the carriers.

Certainly the route pattern problem is a basic and continuing one, and its urgency will not diminish with the passage of time. It is true that the acutely distressed financial condition of the airline industry which gave rise to the initial intense review of the route pattern problem no longer exists. The 1946 and 1947 losses of the domestic trunk airlines have previously been mentioned. In 1948 there was an operating profit of slightly over two million dollars. The industry expects to have made about \$22,000,000 in 1949. This mitigation of the carriers' financial condition was the result principally of increases in traffic, reductions in costs, and adjustments in mail pay. Obviously, however, the route pattern defects revealed during the earlier period of adversity and by a continuing close study of the experience of the past few years remain to be corrected.

Even though prosperity of a sort may temporarily obscure the shortcomings of the route pattern, it is nevertheless still incumbent on the industry and the Board to see that the route design is the best possible at all times. The first recurrence of adversity will place the defects again in the forefront for correction. Today those defects are drains on the strength and independence of the industry. The expected \$22,000,000 industry operating profit for 1949 represents a return, after taxes, of only 3.8 per cent on the industry's \$359,000,000 investment.

There can be no doubt that a solution to some of the deep-rooted problems of the route pattern remains one of the most fundamental and urgent problems facing the industry and the Board. Many share this view. An excellent piece of analytical writing on the subject is the recent book on "Airline Competition," by Frederick W. Gill and Gilbert L. Bates.<sup>15</sup> While I disagree with the views expressed by the Aviation Securities Committee of the Investment Bankers Association of America on the regulation of issuance of airline securities by the Board and on certain other matters, I was glad, as another example in point, to see the Committee's realistic recognition of the importance of the route pattern problem. In its 1949 Report, the Committee stated, "A truly sound air transport system cannot be achieved without major revision of the present network to substantially reduce destructive competition. and reconstitute, through merger or otherwise, those systems which are

---

<sup>15</sup> AIRLINE COMPETITION, A STUDY OF THE EFFECTS OF COMPETITION ON THE QUALITY AND PRICE OF AIRLINE SERVICE AND THE SELF-SUFFICIENCY OF THE UNITED STATES DOMESTIC AIRLINES, Frederick W. Gill and Gilbert L. Bates, Division of Research, Graduate School of Business Administration, Harvard University, Boston (1949).



so inherently weak as to in all probability require heavy subsidy for a long time to come."<sup>16</sup>

Undoubtedly there are a number of areas in our air-transportation system where consideration should be given to suspensions or abandonments, transfers or interchanges, and consolidations or mergers, all with a view of providing really better public service and greater economy to the carriers and government alike. Even so, one should recognize the steps which have been taken in fact in the route pattern field and by companies other than National, Pan American, Grace & Co., and Eastern, in the *National Case*.<sup>17</sup>

### *Hearings to Be Held on Application*

In acknowledging applications which have already been made for approval by the Board of changes in the route pattern and at the same time suggesting the consideration of other possible changes, it is important that at least two things be borne in mind: First, the Board in its Statement of Policy with respect to its Economic Program for 1949, said "... we desire that the industry exercise its own initiative in calling to our attention uneconomic route pattern situations and possible corrective actions which may be achieved by mergers, consolidations, interchanges, or suspensions." This statement does not constitute the slightest intimation that the Board will approve all such applications as have been or may be submitted to it. The Board assumes neither paternity nor paternal care for applications filed in response to its invitation. Even in a situation in which an application might be filed with the Board urging a possible solution being specifically investigated by the Board, no assurance can be taken that such application will be approved. There can be no disposition or prejudgment of these matters based on mere *prima facie* determinations or showings. The Board has

<sup>16</sup> Report of Aviation Securities Committee, Investment Bankers Association of America, 1949. From reprint of Smith, Barney & Co.

<sup>17</sup> Applications by Monarch Air Lines for acquisition of Challenger Airlines and Arizona Airways have been approved by the Board. *Monarch-Challenger Merger Case*, decided December 16, 1949, Order Serial No. E-3721 (Dkt. No. 4129); *Monarch-Arizona Merger Case*, decided April 10, 1950, Order Serial No. E-4050 (Dkt. No. 3977 *et al.*). The Board has approved Chicago and Southern Air Lines' application for authority to abandon service at Peoria and Springfield, Illinois. Chicago and Southern Air Lines, Inc., Abandonment of Service to Peoria, Springfield and Bloomington, decided October 27, 1949, Order Serial No. E-3488 (Dkt. No. 3571). By Order Serial No. E-3652 (December 2, 1949) American Overseas Airlines and TWA were authorized to suspend service temporarily at Washington, D.C., and by Order Serial No. E-3736 (December 21, 1949) TWA was authorized to suspend service temporarily at Chicago and Detroit, all points being coterminals on the foreign air routes of these carriers. The proposed suspensions of service by American Overseas and TWA at Philadelphia, Pa., on their transatlantic routes (Dkt. Nos. 4228 and 4229) and by Northeast at Springfield, Mass., and Keene, N. H. (Dkt. No. 3333), are pending before the Board. American Airlines' application to abandon service at Abilene and Big Spring, Texas (Dkt. No. 3669) has been consolidated into the *Pioneer Renewal Case* (Dkt. No. 3719 *et al.*) by Order Serial No. E-2990 (June 30, 1949). In addition, the following acquisition cases are pending before the Board: West Coast Airlines by Southwest Airways (Dkt. No. 4405); American Overseas by Pan American, *North Atlantic Route Transfer Case* (Dkt. No. 3589 *et al.*); and Parks Air Lines by Mid-Continent Airlines, *Parks Investigation Case* (Dkt. No. 3965 *et al.*).

a positive statutory responsibility in these matters. Any proposed solution must, and quite properly and desirably so, go through the crucible of a public hearing so that the question of public interest can be resolved by the Board on the basis of substantial evidence of record.

Second, there should be no inference that the route pattern is uneconomic in its every segment and carrier division or that only a very few big companies are required to operate all the air route mileage of the United States under a grand consolidation plan. There is a necessity for competition, and a place for economic small companies. Considering the character of the "grandfather" routes, the increased speed and capacity of aircraft, the many developments during and immediately following the war, and the probing of the future which was required, it is surprising that such a relatively few major route pattern problems do seem to exist.

But there are problems. Carrier-wise and alphabetically, most of the major areas of route pattern problems in the domestic trunk line industry have probably already been delineated by the Board in the investigations which have already been instituted with respect to Capital Airlines, Colonial Airlines,<sup>18</sup> National, Northeast, and Western. There may be one or two others, but however many the number in total is not large. The Board has not issued any orders of investigation with respect to possible specific mergers. There are doubtless mergers which would have advantages. Value would seem to attach to merger where the joining of the two companies provided improved service to the public, accomplished new economic outlets to the participating carriers, increased operating efficiency, or made a contribution to the elimination of wasteful competition. But there must be no mergers merely for merger's sake. An example of such an effort would be the merger of two systems already possessing an economic size and route pattern and promising nothing but the creation of a larger and possibly less efficient operating company.

In a narrower but still important field, there are the route segments where the possibility of too much competition might be investigated. The segment investigations already instituted by the Board have been referred to earlier. Others of this character might be considered. Cumulatively, action in this field could assume considerable importance. There is also the possibility of the elimination of certain unanticipated uneconomic competition between feeder and trunkline carriers such as the Board has proposed in the feeder renewal cases. It is in this segment type of situation where the carriers themselves might most easily be helpful, not only in drawing the Board's attention to an uneconomic situation but also in proposing a solution.

#### *Objective Is Classifying or Grouping Carriers*

The over-all objective of changes effected in the air route pattern over a period of time should be to develop classifications or groups of

---

<sup>18</sup> See footnote 1.

carriers. Commercially or economically self-sufficient carriers might constitute the first group. Four carriers, the so-called "Big Four" — American Airlines, Eastern, Transcontinental & Western Air, and United Air Lines — are already operating their domestic systems on what has sometimes been referred to as a service or compensatory mail rate, one containing no allegation of subsidy. Today, they do roughly three-quarters of the trunk-line passenger business. There are doubtless some things which could and should be done to improve their route patterns and provide better service to the public. Essentially, these carriers would be made or kept wholly commercially self-sufficient. Their development would not be retarded or impaired by saddling them unduly with the responsibility for the development and maintenance of unprofitable local service. This would not mean that they would not perform local service; it would mean only that their performance of such service would be tempered with their ability to do so efficiently and without impairment of service to the public or their own commercial self-sufficiency.

The next classification which could be made would be by use of some of the other trunkline carriers, those which possess the inherent strength, perhaps with some relatively minor adjustments in their route patterns and the continuing growth of traffic, to become so-called service or compensatory mail rate carriers also. Every proper encouragement and assistance should be given by the Board to this end. These are substantial companies. Today, any one of them is larger than American or others of the "Big Four" were at the time of the passage of the Act.

Then would come those trunk lines which might be expected to remain in the high mail rate class for a long time to come. Serving long-range and broad public interest objectives of the Civil Aeronautics Act, some of these carriers' route systems may not lend themselves to a blending with other carrier systems to make another strong system, nor to economical acquisition by a larger carrier. With honest, economic, and efficient management, the retention of their corporate independence might best promote the public interest.

Next in succession would come companies operating the experiments in the so-called feeder or local services and the helicopter services. At present, they operate undeniably subsidy routes. Experiments now, even in the cases of successful maturity then can be expected to require subsidy support for a long time to come.

Territorial and international services, with many national interest characteristics requiring government support, would come next.

Finally, there would be certificated carriers operating without mail pay and the so-called irregular carriers serving purposes not requiring certification.

Such a classification or grouping might very well be the type contemplated in Section 416 (a) <sup>19</sup> of the Act. Certainly, the air route pattern envisaged in such a broad classification seems to be a modest, desirable, and wholly attainable objective promoting the highest concepts of the public interest. Not the least of its advantages would be the identification of government financial support by the clear purposes for which it was spent. No better separation of service and so-called subsidy mail rates could possibly be effected.

#### *Available and Needed Powers*

It seems appropriate at this point to refer briefly to the character of the resources mentioned earlier, which appear available to the Board in the absence of acceptable responses to suggestions or invitations for revisions in the route pattern. The plain fact is that the Board may not possess wholly adequate powers to accomplish the route pattern changes which it may find to be in the public interest. The authority to require mergers and effect other remedies, possibly with appropriate provisions to prevent economic loss to carriers involved in the process, may have to be sought from the Congress. Meanwhile, however, the Board is not without some possibly quite considerable resources.

The use of proceedings under Section 401 (h) <sup>20</sup> of the Act, leading to modifications and suspensions of certificates in whole or in part, is, of course, already well known. Moreover, while the Board has never undertaken to reduce "need" payments to "need" carriers in order to accomplish improvements in the route pattern, the provisions of Section 406 (b) <sup>21</sup> of the Act give the Board great discretion in limiting financial support of uneconomic routes. The Board has already found that it has broad discretionary power in the establishment of subsidy

---

<sup>19</sup> "The Authority [Board] may from time to time establish such just and reasonable classifications or groups of air carriers for the purposes of this title as the nature of the services performed by such air carriers shall require; and such just and reasonable rules, and regulations, pursuant to and consistent with the provisions of this title, to be observed by each such class or group, as the Authority [Board] finds necessary in the public interest."

<sup>20</sup> "The Authority [Board], upon petition or complaint or upon its own initiative, after notice and hearing, may alter, amend, modify, or suspend any such certificate, in whole or in part, if the public convenience and necessity so require . . ."

<sup>21</sup> "In fixing and determining fair and reasonable rates of compensation under this section, the Authority [Board], considering the conditions peculiar to transportation by aircraft and to the particular air carriers or class of air carriers, may fix different rates for different air carriers or classes of air carriers, and different classes of service. In determining the rate in each case, the Authority [Board] shall take into consideration, among other factors, the condition that such air carriers may hold and operate under certificates authorizing the carriage of mail only by providing necessary and adequate facilities and service for the transportation of mail; such standards respecting the character and quality of service to be rendered by air carriers as may be prescribed by or pursuant to law; and the need of each such air carrier for compensation for the transportation of mail sufficient to insure the performance of such service, and, together with all other revenue of the air carrier to enable such air carrier under honest, economical, and efficient management, to maintain and continue the development of air transportation to the extent and of the character and quality required for the commerce of the United States, the Postal Service, and the national defense."

rates;<sup>22</sup> that a future mail rate "offers only an opportunity to earn a fair return and does not guarantee that such a return will, in fact, be earned";<sup>23</sup> that the existence of a "grandfather" route does not conclude the character or extent of services for which a mail rate should be fixed;<sup>24</sup> and that Section 406 (b) of the Act does not require the Board to fix rates of compensation which will insure the continuance of unnecessary services — those not presently or prospectively required by the commerce of the United States, the Postal Service, and the national defense.<sup>25</sup> Whatever the strength of these powers, the Board might very well be viewed as derelict in its duty if it did not attempt to use them in what appeared to be appropriate circumstances.

### *Air Transportation Policy Should Not Be Changed*

In considering air transportation route problems, it cannot be expected that changes in the route pattern can be made or should be made

<sup>22</sup> Mid-Continent Airlines, Inc.—Mail Rates, 1 C.A.A. 45, 55 (1939); 1 C.A.A. 182, 188 (1939); Pan Am. Airways Co. (Del.), Transatlantic Mail Rates, 1 C.A.A. 220, 253 (1939); Pan Am. Airways Co. (Nev.), Transpacific Mail Rates, 1 C.A.A. 385, 408 (1939). See American Air.—Mail Rates, 3 C.A.B. 323, 334 (1942).

<sup>23</sup> Pennsylvania Central Air, *et al.*, Motions, aff'd 8 C.A.B. 685, 690 (1947); *Transcontinental & Western Air, Inc. vs. Civil Aeronautics Board*, 336 U.S. 601 (1949).

<sup>24</sup> Pan American Airways Co. (Del.) N. Y.—Bermuda Mail Rates, 1 C.A.A. 529, 542 (1940).

<sup>25</sup> "The definition of the 'need' of each air carrier for compensation for the transportation of mail as set forth in the last clause of section 406 (b) implements the first item in the general declaration of policy set forth in section 2 of the Act that—

"In the exercise and performance of its powers and duties under this act, the Authority shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity—

"(a) The encouragement and development of an air-transportation system properly adapted to the present and future needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense; . . ."

It is believed that the interests to be considered in relation to the commerce of the United States, the Postal Service, and the national defense under both of the above-quoted sections are essentially national interests, and not necessarily the to the needs of each air carrier for compensation for the transportation of mail individual interests of any particular carrier. In referring in section 406 (b), sufficient for the purposes stated, Congress cannot be understood to have meant that rates should always be fixed in such amounts as would be necessary to maintain existing services in their present volume and character under all conditions; such an interpretation would not harmonize with the controlling objectives which underlie these particular provisions of the Act. While the special provisions of section 401 (e) of the Act have disposed of the issue of public convenience and necessity for the local Bermuda service, that section has not determined the question of the character and extent of the services for which the Authority is to fix rates under the rate-making elements set forth in section 406 (b). The statute contains no mandate to the Authority to fix rates of compensation which will insure the continuance or promote the development of services, to an extent, and of a character and quality, *not* required by the commerce of the United States, the Postal Service, and the national defense." Pan Am. Airways Co. (Del.), N. Y.—Bermuda Mail Rates, 1 C.A.A. 529, 542 (1940). "The 'grandfather' certificate subsequently issued to respondent for this route, as previously stated, does not authorize the transportation of mail. Section 406 (b) of the Act does not require financial support by the Government of every route for which a certificate may be granted. In each instance there must be an independent determination pursuant to the standards provided in section 406 (b) that the operations in question are currently of an extent and of the character and quality required for the commerce of the United States, the Postal Service, or the national defense. It is therefore appro-

for the purpose of creating immediately a commercially self-sufficient air transportation system. This cannot be done unless the basic air-transportation policy of the United States is changed. I do not believe this policy should be changed. To say that only a commercially self-sufficient air-transportation system should be permitted to survive at this time would be to close our eyes to the fact that despite all its spectacular growth, air transportation is still in its developmental stage. There is still opportunity for new developments and new enterprise. The door is not closed forever; it is not even closed. To put it another way, there is a sharp distinction between sound economic conditions and commercial self-sufficiency. They are not synonymous and they can exist independently of one another. To illustrate:

The history of the United States air-transportation system is one of continuous expansion. Initially it was projected to connect only the great traffic centers. There can be little doubt that this initial pattern reached commercial self-sufficiency long ago. No mail payments of any sort would be required to support it today. Not only has it reached such self-sufficiency but the commercial revenues derived from the great initial intercity traffic combinations such as New York-Chicago, New York-Washington, and New York-Los Angeles now far exceed the operating expenses and, in fact, produce large surpluses which are automatically applied to the support of routes which are not commercially self-sustaining.

Not only has the process of expansion been continuous but it has been directed toward the inclusion of progressively poorer traffic routes — routes operated in many instances in consideration of national defense or other objectives of the public interest and with no thought that such routes would become immediately commercially self-sufficient.<sup>26</sup>

There seems little reason to doubt that it would be economically possible to establish today a commercially self-sufficient United States air-transportation system of very large scope. As a first step, however, it

---

prate to consider whether respondent's services on the Bethel route have been required in the interest of any of the objectives specified in section 406(b) of the Act." Pan Am. Airways, Inc., Alaska Mail Rates, 6 C.A.B. 61, 70 (1944). Accord, Braniff Airways—Mail Rates, 1 C.A.A. 353, 359 (1940); Chicago and Sou. A. L., Mail Rates—Route Nos. 8 and 53, 3 C.A.B. 161, 191-2 (1941). Compare Braniff Air., Mail Rates, 9 C.A.B. 607, 613 (1948). Cf. Northeast Air., Mail Rates, 9 C.A.B. 291, 296 (1948).

<sup>26</sup> "Although it is, of course, to be anticipated that all parts of the air transport system of the United States will make continuing progress towards independence of Government support, it would not only seem an unsound administration of the act but also a policy contrary to its intent to require that each addition to the existing system of air routes should be independent of Government assistance through mail payments at the time of its establishment or at any early stage of its operation. Only on a small part of the existing route mileage could such a standard be met, and to establish it for the future would, in effect, freeze the present air transport map, allowing very minor modifications or none at all over a protracted future period." Continental A. L., Roswell-Hobbs-Carlsbad Operation, 1 C.A.A. 598, 601 (1940). The Board has held that benefits to the Postal Service, commerce, and national defense can justify the probable cost of the proposed service to the Government. Caribbean-Atlantic Air., *et al.*, Puerto Rican Op., 3 C.A.B. 717, 724 (1942); Northwest Air., Green Bay-Wausau-Eau Claire, 4 C.A.B. 119, 126 (1943).

would be necessary to discard the statutory declaration of policy and to substitute for it a new and different concept of civil air-transportation development. If that new concept were to be commercial self-sufficiency alone, probably one of the quickest ways to achieve it would be to let the competitive forces of free enterprise operate without regulation. But whether by this method or by the actions of a regulatory agency with a new policy mandate, the results would be the same.

Routes would be pared down. There would be a ruthless elimination of all traffic stops which contributed insufficient traffic to absorb their out-of-pocket costs. This could be expected to result in relatively great reduction of operating cost as compared with the loss of revenue traffic. It would, of course, also result in the loss of much air service now regarded as necessary to the national interest. Many of the present trunkline systems would change in character and scope; many of the carriers perhaps might disappear. The feeder airlines and helicopter services would be eliminated in one sweeping stroke. There would be no network of United States flag routes around the world. Practically all our international services would bear some contraction; some would disappear altogether. Our Territories would feel the blow keenly, especially in Alaska where the need for air transportation is great and where more rather than less needs to be done in providing an adequate air-transportation system. The test everywhere would be the hard, cold test of commercial self-sufficiency. The larger concept of the need of the whole nation — of air transportation as one of the vital economic, social, and unifying forces of the United States — would be superseded. We would abandon considerations of national defense and international policy which have so strongly influenced new route development, particularly in the foreign field.

Such a result would be catastrophic. I firmly believe in the character of United States air-transportation development and the public interest objectives prescribed by the Congress in the Civil Aeronautics Act. The sums of Federal funds invested in these objectives, relatively small in terms of national defense costs, yielded an incalculable return in the conduct of the war with the Axis. They daily yield an incalculable economic, social, and political return. A continuance of the historic United States policy of civil air-transportation development is more than justified by this record. I have every confidence in the record it will achieve in the future.